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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/812,247	03/19/2001	Bradley S. Hoyl	M-9698 US	7809

33031 7590 10/22/2004

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EXAMINER

WOOD, KIMBERLY T

ART UNIT PAPER NUMBER

3632

DATE MAILED: 10/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/812,247

Applicant(s)

HOYL ET AL.

Examiner

Kimberly T. Wood

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9, 11-16, 18-28 and 30-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11-16, 18-28, 30-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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This is an office action for serial number 09/812,247, entitled Fiber Optic Cabling Management Using hook and loop Fabric, in response to amendment D filed on April 29, 2003.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 5, and 38 are rejected under 35 U.S.C. 102(e) as being anticipated by Hubbard et al. (Hubbard) 4,617,017. Hubbard discloses a planar substrate (12) having a first surface (20); a cable fastener(22) having a second plurality of fasteners of one of a plurality of hook and loop mechanisms (29), a variable width opening/means for encircling (capable of encircling cables, see figure 3), an elongated body (26), a head portion (24), a head defining an opening (28).

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***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-9, 11-16, 18-28, 30-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jaquith 5,624,403 in view of Hubbard et al (Hubbard) 4,617,017, as discussed above. Jaquith discloses a substrate means (10) having a first surface (12) containing a first plurality of fasteners of one of a plurality of hook and loop mechanisms/means for releasably engaging the cable fastener/tie wrap (16) and a second surface (see figure 2), a means for coupling (20 and 14) the substrate means to the frame means, a separate cable (column 1, lines 54ff) fastener/means for supporting one or more cables (24, 26, and 28) having a second plurality of fasteners (column 3, line 30) of the one of plurality of hook and loop mechanisms to engage the first plurality of fasteners wherein the cable fastener is configured to be releasably coupled to any location on the first surface (column 3, lines 29ff), and a cable routing

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apparatus comprising rigid frame means (23) having at least one planar surface (see figure 2). Jaquith discloses all of the limitations of the claimed invention except for the cable fastener having a variable-width opening and a head portion with an opening. It would have been obvious to one having ordinary skill in the art to have modified Jaquith to have substituted the cable fastener as taught by Hubbard for the purpose firmly securing the cable to the supporting surface by firmly holding a plurality of differently sized cables in place with a roughly uniform restriction about the entire circumference of the cable. Jaquith in view of Hubbard inherently teaches supporting one or more cables with a cable fastener, releasably engaging the cable fastener to the substrate, and providing a rigid frame. Jaquith in view of Hubbard discloses the claimed invention except that instead of fiber cables or electrical they show cables.

Therefore, because these two cables were art-recognized equivalents at the time the invention was made, one of ordinary skill in the art would have found it obvious to substitute cables for fiber cables or electrical cables. The suggestion for such a modification is found in the applicant's own specification on page 9, lines 23ff). Jaquith in view of Hubbard discloses the claimed invention except for the mushroom-shaped, pine-tree shaped stems, and loops on the tie wrap. It would

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have been obvious to one having ordinary skill in the art at the time the invention was made to substituted the mushrooms or pine-tree shaped stems, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice by the applicant's own admission on page 7, lines 8ff, that the exact type of releasable "VELCRO" mechanism is not critical to the invention (see *Harrori* 5,671,511). *In re Leshin*, 125 USPQ 416. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have made the tie wrap containing loops and the substrate containing hooks, since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. *In re Einstein*, 8 USPQ 167.

### ***Response to Arguments***

Applicant's arguments with respect to the claims 4, 7-9, 11-16, 18-28, 30-37 have been considered but are moot in view of the new ground(s) of rejection.

In response to the applicant's arguments that the cable fastener of Hubbard et al. (Hubbard) is not separate from the substrate the examiner would like to point out that separate by

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definition means "to divide into constituent parts" (Merriam Webster's Collegiate Dictionary tenth edition). Hubbard clearly discloses that the cable fastener (22) is a separate and individual part which functions to hold a tubular member to another separate and individual part the planar substrate (12). The cable fastener (22) and substrate (12) are also separate from one another since the cable fastener is attached to another part (14) and not directly to the substrate (12); therefore the cable fastener (22) when not attached to the substrate (12) via the Velcro members the cable fastener is separate from the substrate (12). The applicant has indicated that the examiner has confused the verb "separate" with the adjective "separate" however, the examiner feels that regardless of how the applicant has used the term "separate" within the claim the examiner is at liberty to view the claim in the broadest sense which would allow the examiner's interpretation of "separate".

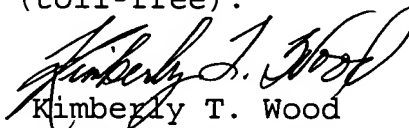
### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly T. Wood whose telephone number is 703-308-0539. The examiner can normally be reached on Monday-Thursday 7:30am to 5:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie Braun can be reached on 703-308-2156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Kimberly T. Wood  
Primary Examiner  
Art Unit 3632

October 18, 2004